

202 KAR 10:030. Tolling projects.

RELATES TO: KRS 65.245, 175B.010(11), (14), (16), 175B.015(12), 175B.035(8), 175B.040, 281A.010(8)

STATUTORY AUTHORITY: KRS 175B.015(12), 175B.040(4)(b)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 175B.015(12)(c) authorizes the state authority to promulgate administrative regulations to collect and enforce tolls. KRS 175B.015(12)(a) authorizes the authority to establish the process for collection and enforcement procedures for fines, charges, assessments, and other enforcement mechanisms for the violation of KRS 175B.040(4), and for any violation of this administrative regulation. KRS 175B.015(12)(b) authorizes the state authority to establish an appeals process by which a person contesting a violation of this administrative regulation may obtain an administrative hearing to be conducted in accordance with KRS Chapter 13B. For the purpose of efficiently administering the toll systems, this administrative regulation establishes the process by which the state authority shall collect and enforce tolls, establish enforcement mechanisms, and an appeals process.

Section 1. Definitions. (1) "Commercial motor vehicle" is defined by KRS 281A.010(8).

(2) "Development agreement" means a written agreement containing the information required by KRS 175B.035(8).

(3) "Interlocal agreement" means a written agreement as contemplated by KRS 65.245.

(4) "Out-of-service notice" means an affixed notice as contemplated by 601 KAR 1:005, Section 6.

(5) "Photo toll" means a charge associated with a particular vehicle that is identified by the vehicle's license plate if the vehicle's registered owner does not have a toll account.

(6) "Project" is defined by KRS 175B.010(11).

(7) "Project document" means the development agreement, public-private partnership agreement, or interlocal agreement for a project.

(8) "Protestant" means a person who protests the imposition of a toll, fine, or fee.

(9) "Protestant's vehicle" means the registered vehicle of a protestant used when the unpaid toll, fine, or fee was assessed or the toll account was debited.

(10) "Public-private partnership" is defined by KRS 175B.010(14).

(11) "Public private partnership agreement" means the agreement contemplated by KRS 175B.020(1)(c)(4).

(12) "State authority" is defined by KRS 175B.010(16).

(13) "Toll account" means a prepaid account that is linked to a transponder, license plate, or other means of identification of a vehicle in order to pay a toll by automatic debit.

(14) "Toll operator" means any entity designated by the state authority to implement and operate a toll system for a project.

(15) "Transponder" means a device used to identify and automatically debit a toll account for purposes of toll collection.

Section 2. Toll Rates and Fees. (1) The state authority shall cause the identity of the toll operator, toll rates, escalation schedules, fees, and fines for each project on which tolls are implemented to be published yearly online at transportation.ky.gov/KPTIA/Pages/default.aspx and in at least two (2) statewide or regional newspapers. For projects between the commonwealth and another state, the state authority shall cause toll rates, escalation schedules, fee schedules, and fine schedules to be published in at least one (1) statewide or regional newspaper circular with distribution in that state.

(2) Toll rates, toll payment methods, escalation schedules, fine schedules, and fee schedules for a project shall be determined as established in the project document based on traffic and revenue studies, total project financial obligations, and community socioeconomic factors.

(a) Fees shall be assessed for account statements, late payment notices, collection efforts, inactivity, returned checks, or the purchase or lease of transponders as established in the project document.

(b) Fines shall be assessed for failure to pay tolls or fees as established in the project document.

(3) The state authority shall use all-electronic toll equipment or toll booths to charge and collect tolls.

(4) There shall be a rebuttable presumption that charged tolls, fees, and fines are correct and accurate.

Section 3. Administrative Hearings. (1) If a protestant asserts that a toll, fine, or fee was assessed incorrectly or the protestant's account was debited incorrectly, the protestant shall file a written protest with the toll operator of the project that assessed the toll, fine, or fee within sixty (60) days of the toll operator mailing the disputed invoice or the debit being taken from the toll account.

(2) The written protest shall include:

(a) The grounds for the protest; and

(b) A copy of the disputed invoice or the account statement showing the disputed debit.

(3) The following shall be the exclusive grounds to protest a toll, fine, or fee:

(a) The license plate was misidentified;

(b) The protestant was incorrectly identified as the registered owner of the vehicle that was assessed the toll;

(c) The vehicle shown in the image associated with a toll assessed is not the vehicle to which the license plate shown in the image is assigned;

(d) The vehicle that used the tolled road or bridge had been sold, transferred, or stolen at the time of the use that resulted in the toll, fine, or fee; or

(e) The protestant's vehicle classification was incorrectly assigned.

(4) The toll operator may request additional information from the protestant.

(5) The toll operator shall notify the protestant by mail of the toll operator's determination on the protest and the protestant's right to a hearing pursuant to KRS Chapter 13B within thirty (30) days of receipt of the written protest.

(6) If the toll operator determines, pursuant to subsection (3)(a) through (e) of this section, that the protestant owes the toll, fee, or fine and the protestant agrees with the determination made by the toll operator, the protestant shall pay the toll, fine, or fee within ten (10) days of receipt of the determination from the toll operator.

(7) If the protestant does not agree with the determination made by the toll operator, the protestant shall request an administrative hearing pursuant to KRS Chapter 13B.

(a) A request for an administrative hearing shall be made to the state authority with a copy to the toll operator within thirty (30) days of the notice of determination from the toll operator.

(b) The state authority shall assign a hearing officer to conduct a hearing and provide a recommended order pursuant to KRS Chapter 13B. The hearing officer shall provide notice of the hearing to the protestant and any entity with a financial interest in the toll, fee, or fine in dispute.

(c) The toll operator shall submit the following to the state authority at least ten (10) days prior to the date of the administrative hearing:

1. The video or photographic images of the crossing in question, which shall include time,

date, and location of the crossing; and

2. Evidence of the license plate look-up and registration records from the agency responsible for registration information in the state where the vehicle is registered.

(d) The hearing officer shall provide a recommended order to the chairman of the state authority. The chairman of the state authority shall make a final determination, pursuant to subsection (3)(a) through (e) of this section, regarding the validity and amount of the toll, fine, or fee assessed.

(e) During the time the administrative hearing process is pending, the unpaid toll, fine, or fee shall not be escalated and additional fees or fines associated with the disputed charge shall not be assessed.

(f) If the chairman of the state authority determines, pursuant to subsection (3)(a) through (e) of this section, that the protestant owes a toll, fee, or fine, the protestant shall pay the toll, fee, or fine within thirty (30) days of the date of the determination.

Section 4. Toll, Fine, and Fee Enforcement. (1) A person shall be in violation of KRS 175B.040(4) if that person has not made a timely payment of a currently due and payable toll, fine, or fee as established in the project document. A toll operator for a project shall notify the Kentucky Transportation Cabinet Division of Motor Vehicle Licensing and the Kentucky Transportation Cabinet Division of Motor Carriers of people in violation of KRS 175B.040(4) and securely provide the following information to the Kentucky Transportation Cabinet Division of Motor Vehicle Licensing, the Kentucky Transportation Cabinet Division of Motor Carriers, and the Offices of the County Clerks:

(a) Identification of the vehicle used when the photo toll was assessed, evidence of the license plate look-up, and information showing to whom the vehicle was registered at the time the photo toll was assessed;

(b) Any photographic evidence showing the vehicle using the road or bridge when the toll, fine, or fee was assessed, along with the date, time, and location of the use;

(c) If an administrative hearing was requested, the determination of the chairman of the state authority;

(d) A copy of any invoice or violation notice related to the unpaid toll, fine, or fee, and any returned mail notice associated with those invoices and violations; and

(e) A record of any toll, fine, or fee currently due and payable, which shall be updated daily by the toll operator until payment in full is made.

(2) Upon receiving notice from the toll operator, the Kentucky Transportation Cabinet Division of Motor Vehicle Licensing shall place a hold on the protestant's vehicle registration.

(3) Upon receiving notice that a commercial motor vehicle is in violation of KRS 175B.040(4) and after verification that a notice of violation was sent to the owner of the commercial motor vehicle, an officer or inspector of the Division of Motor Vehicle Enforcement shall be authorized to affix to the commercial motor vehicle an out-of-service notice indicating the nature of the violation and requiring its correction before the commercial motor vehicle is further operated. A person shall not operate a commercial motor vehicle in violation of the out-of-service notice affixed to it. (43 Ky.R. 1120, 1553; eff. 3-31-2017.)